

FILED

JUL 27 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAUL SANCHEZ,

Defendant - Appellant.

No. 05-50259

D.C. No. CR-03-00392-AK

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Alex Kozinski, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Raul Sanchez appeals from the ten-year sentence imposed following his guilty plea conviction to possessing with intent to distribute methamphetamine in

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 21 U.S.C. § 841(a)(1). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Sanchez challenges the district court's ruling that it lacked the discretion to disregard his criminal history points for purposes of determining safety-valve eligibility under 18 U.S.C. § 3553(f). Sanchez contends that § 3553(f) runs afoul of the remedial holding in *United States v. Booker*, 543 U.S. 220 (2005), because it requires the district court to use the Sentencing Guidelines to determine when a defendant is safety-valve eligible. We reject this contention.

Booker prohibits the mandatory application of the Sentencing Guidelines to increase a defendant's sentence beyond the amount authorized by the facts reflected in the jury verdict or admitted by the defendant. *See id.* at 230-34. *Booker* does not address the application of the Sentencing Guidelines to *decrease* a defendant's sentence beneath the amount authorized by the statute of conviction. Because *Booker* does not bear on mandatory minimums, *see United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir. 2005), it neither compels nor authorizes the result sought by Sanchez.

AFFIRMED.